

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Petition of AT&T Wireless
Services, Inc.; Southwestern Bell
Mobile Systems, LLC d/b/a
Cingular Wireless; Chicago 20MHz,
LLC d/b/a PrimeCo Personal
Communications; Sprint Spectrum
L.P. d/b/a Sprint PCS; Verizon
Wireless; and VoiceStream
Wireless To Amend the
Commission's Order in Docket
Nos. 97-0211/97-0192 Regarding
the Months To Exhaust Criteria

OFFICIAL FILE

I.C.C. DOCKET NO. 02-0216

Exhibit No. Joint No. 1

Witness:

Date 5/20/02 Reporter SS

PROPOSED ORDER

By the Commission:

I. Procedural History; Relief Sought

AT&T Wireless Services, Inc. ("AT&T Wireless"), Southwestern Bell Mobile Systems, LLC d/b/a Cingular Wireless ("Cingular"), Chicago 20MHz, LLC d/b/a PrimeCo Personal Communications ("PrimeCo"), Sprint Spectrum L.P. d/b/a Sprint PCS ("Sprint PCS"), Verizon Wireless and VoiceStream Wireless (collectively "Petitioners") filed the captioned Petition on March 20, 2002. The Petition requests that this Commission modify one of its earlier orders and thus to place wireless carriers seeking growth numbering resources in the Chicago area on the same footing as wireline carriers seeking those same kinds of resources in the Chicago area and on the same footing as carriers seeking those resources elsewhere in Illinois or across the country.

Pursuant to due notice, hearings were held at the Commission's offices in Chicago, Illinois before a duly authorized Administrative Law Judge on April 9, 2002 and on May 16, 2002. Appearances were entered by the above-named parties and the Commission Staff by their respective attorneys. No petitions to intervene were filed. At the May 16, 2002 hearing, evidence was presented and, at the conclusion of the hearing, the record was marked "heard and taken." An agreed Proposed Order was filed with the Administrative Law Judge to which no exceptions were filed.

The Petitioners are all wireless mobile carriers. As wireless mobile carriers, they do not currently participate in number pooling. Therefore, Petitioners can obtain growth numbering resources only in the form of full NXX codes from the code

administrator instead of thousand number blocks from the pooling administrator. Under federal rules, carriers can initiate requests for growth numbering resources up to six months before the projected exhaust of their current inventory. However, under this Commission's Order in Docket Nos. 97-0211 and 97-0192 ("ICC Numbering Order"), carriers cannot initiate requests for growth NXX codes until 90 days before their projected exhaust. By its terms, the ICC Numbering Order does not apply to area codes outside of the Chicago area and, as the result of subsequent FCC and Commission Orders, does not apply to pooled number blocks even in the Chicago area. In effect, only non-pooling carriers operating in the Chicago area are subject to the 90-day limitation.

II. Summary of Positions

Petitioners' Position

Petitioners jointly presented the testimony of Peter J. Long, Manager, External Affairs - Network of Southwestern Bell Mobile Systems, LLC d/b/a Cingular Wireless -- Great Lakes Region ("Cingular"). According to Mr. Long, under the FCC rules currently in place for the Chicago area, carriers involved in number pooling can initiate their requests for necessary numbering resources up to six months ahead of their projected need for numbering resources. However, under the ICC Numbering Order, carriers that cannot participate in pooling (including Petitioners and any other carriers that are not pooling capable) cannot initiate their requests for necessary numbering resources more than three months ahead of their projected need. There is no technical or administrative need for such disparate treatment of non-pooling carriers. This not only results in unequal treatment for different types of carriers, it has negative competitive impacts on Petitioners and other wireless carriers and no offsetting benefit to number conservation.

Mr. Long explained that telecommunications carriers obtain their telephone numbering resources from the North American Numbering Plan Administrator ("NANPA"), sometimes referred to as the "Number Administrator." Historically, carriers obtained those resources in blocks of 10,000 numbers which constituted an entire NXX code.¹ Since the advent of number pooling, carriers that can participate in pooling obtain their numbering resources for most large metropolitan areas like Chicago from a "Pooling Administrator." The Pooling Administrator can distribute telephone numbers in

¹ "NXX" refers to the 4th, 5th, and 6th digits or the "prefix" in a 10-digit telephone number that is technically described as an (NPA) NXX-XXXX. NPA, commonly referred to as the "area code" stands for "Number Planning Area." NXX refers to the technical requirements of a telephone prefix, where "N" can equal any number except 1 or 0 and "X" can equal any number. XXXX refers to the technical requirements of a line number, where "X" can equal any number. 10,000 numbers is the sum of possible combinations of a four-digit line number.

1,000 number blocks.² Like non-pooling carriers, the Pooling Administrator obtains its codes to supply the pool from the Number Administrator.³

According to Mr. Long, carriers normally need numbering resources either to establish a market presence or to support growth in their customer base. In the first case, a carrier requests one or more "initial" codes or blocks of numbers to establish a commercial presence or footprint in a particular rate center or at a rating point where it is initiating service. Under current guidelines, a carrier is entitled to initial numbering resources on a showing that it is prepared to offer service in a given rate center or geographic area within sixty days of assignment. In the second case, a carrier requests numbering resources for a "growth" code (or *growth* resources in the case of pooling) because it has more customers in an established market than its numbering resources can handle.⁴ The Petition is related only to the standards for obtaining *growth* codes. Under normally applicable FCC standards, a carrier may not initiate its request for a growth code unless it can certify to the Number Administrator that its current numbering resources in the relevant rate center or at the relevant rating point will exhaust within six months. See 47 C.F.R. § 52.15(g)(3)(iii).

Under the ICC Numbering Order, a carrier seeking numbers in the 847, 312, 773, 630 and 708 area codes⁵ may not apply for a full NXX growth code until it can certify

² In its simplest terms, through number pooling, telecommunications providers receive their numbers on an NXX-X basis instead of an NXX basis. This results in carriers obtaining all of the line numbers in a prefix that start with the same digit. For current wireline number pooling, the ability to donate and receive groups of line numbers rather than entire prefixes requires the use of LRN, an architecture which is the technical backbone of number portability.

³ NeuStar, Inc. is currently acting as both the Number Administrator and the Pooling Administrator. In order to avoid confusion about the basis of NeuStar's different administration duties, this Order will continue to use the titles of "Number Administrator" and the "Pooling Administrator." The Number Administrator handles code requests under the INC Central Office Code Assignment Guidelines ("INC Guidelines"). See Alliance for Telecommunications Industry Solutions (ATIS), Sponsor of Industry Numbering Committee (INC), Central Office Code (NXX) Assignment Guidelines, INC 95-0407-0008, January 8, 2001. The Pooling Administrator uses the INC Thousands-Block Number (NXX-X) Pooling Administration Guidelines (TBAG), INC 99-0127-023 (effective January 8, 2001, to handle carrier code requests for thousands blocks.

⁴ *In the Matter of Numbering Resource Optimization, Report and Order and Further Notice of Proposed Rulemaking* in CC Docket No. 99-200, FCC 00-104 (released March 31, 2000) ¶¶ 85-87 (1st NRO Order). Pursuant to FCC rules, different standards have been established for initial codes and growth codes. *Id.* at ¶¶ 91, 96-97; 104-115. See also *In the Matter of Numbering Resource Optimization, Second Report and Order, Order on Reconsideration* in CC Docket No. 96-98 and CC Docket No. 99-200, and *Second Further Notice of Proposed Rulemaking* in CC Docket No. 99-200, FCC 00-429, 16 FCC Rcd 306 (2000), ¶¶ 18-33. (2nd NRO Order); *In the Matter of Numbering Resource Optimization, Third Report and Order and Second Order on Reconsideration* in Docket No. 96-98 and CC Docket No. 99-200, FCC 01-362 (Released December 28, 2001), ¶¶ 47-56 (3rd NRO Order). The standards for granting an initial code are not at issue here.

⁵ Although the ICC Numbering Order originally applied only to the 847 area code, its number conservation and number pooling requirements were extended to the 312, 773, 708, 630 and 847 area codes through the Commission's December 16, 1998 Order in Docket No. 98-0497.

that it has utilized 75% of its current inventory of assigned numbers⁶ and that its current number resources in the relevant rate center or geography will exhaust within *three* months. Mr. Long opined that, as a result of a subsequent Commission Order, the three-month limitation does not apply to requests for numbering resources from the Pooling Administrator in the five Chicago area codes. See December 16, 1998 Order in Docket No. 98-0497. Finally, as a result of the subsequently codified FCC Rule 52.15(g)(3)(iii), the three-month requirement does not apply to requests for NXX codes in area codes outside of the Chicago area. Despite the subsequent Commission Order and FCC Rule, the Number Administrator has taken the position that the three-month requirement still applies to full NXX growth code requests by non-pooling carriers in the Chicago area codes. As a consequence of these later pronouncements by the FCC and this Commission, Petitioners and any other non-pooling carriers operating in the Chicago area are uniquely impacted by the three-month limitation.

Mr. Long testified that the effect of the three-month limitation is to place Petitioners and other non-pooling carriers at serious risk of having insufficient numbering resources to meet customer demand, since three months may not be enough time to obtain an NXX code and activate it for customer use. Under the applicable INC Guidelines, it takes 66 days from the date a carrier requests a new NXX code for that code to be activated and made available for assignment to the carrier. Once the 66 day code activation process is complete, the carrier then must also complete testing to assure proper implementation. This requires additional time and will vary depending on whether issues arise. Thus, the three months to exhaust requirement leaves little room for error. If a carrier underestimates its need (and actually needs the code sooner than three months) or if there is a problem in the code acquisition process, there is a high likelihood the carrier will run out of its existing numbering inventory *before new telephone numbers become available*.

As a result, Mr. Long explained, there may be periods during which the carrier cannot provide new customers with telephone numbers on demand. Not only is the inability to provide numbers on demand likely to be treated by customers as a negative reflection on a carrier's ability to provide service, it is very likely to cause customers to seek other options for no competitively appropriate reason other than the wish or need for immediate service. Moreover, since this problem is triggered by high demand, it is most likely to impact the faster growing competitors or to strike during the peak demand period like the Christmas season. In sum, the more effective the competition and the higher the demand for service, the more likely the problem.

Mr. Long further testified that bringing the ICC Numbering Order into line with the prevailing statewide and nationwide practices will not endanger numbering resources in the Chicago area. The carrier will still have to show that it has utilized 75% of its current inventory prior to requesting a growth code. Further, the six-month requirement has

⁶ The Petitioners are *not* seeking to change the 75% utilization standard. Thus, in order to qualify for a growth code under the requested six-month timeframe, a carrier would still have to certify that it has utilized 75% of its assigned numbers.

functioned effectively for pooling carriers in the Chicago area and for all carriers in Illinois outside Chicago. Moreover, the FCC has implemented national rules that establish a six-month limitation for both pooling and non-pooling carriers. The FCC has determined that a six-month inventory, coupled with appropriate utilization requirements, strikes a proper balance between carriers' business needs and the efficient utilization of area code resources. See *In the Matter of Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 99-200, FCC 00-104, 15 FCC Rcd 7574 (2000) (1st NRO Order) at ¶¶ 101-15. Significantly, if the Commission decides to revise the months to exhaust requirement here, wireless carriers will still be required to certify to the Number Administrator that they will exhaust their current numbering resources within six months. See 47 C.F.R. § 52.15(g)(3)(iii); INC Guidelines Section 6.1.2 and Appendix B. In addition, any wireless carrier not making use of its code within six months of assignment would still be subject to code reclamation procedures.

Mr. Long summarized that not only is the Commission's unique three-month limitation for non-pooling carriers operating in the Chicago area codes unnecessary to protect those area codes from early exhaust, it is inconsistent with superseding FCC rules. With the implementation of nationwide conservation and pooling, this inconsistency between the Chicago area requirements and the otherwise prevailing statewide and nationwide requirements imposes an unnecessary administrative burden on non-pooling carriers and the Number Administrator since it requires special administrative procedures to track code requests in the Chicago area separate from their normal administrative procedures. Again, given the continued requirements to demonstrate exhaust of numbering resources and use of newly-assigned resources, there is no offsetting benefit to the goals of code conservation.

Staff's Position

Staff presented the testimony of George Light, an Engineering Analyst in the Telecommunications Division of the Illinois Commerce Commission. Staff supports the relief requested in the Petition.

After reviewing Mr. Long's analysis, Mr. Light explained that a carrier requests "growth" numbering resources when it already has existing numbers assigned within a rate center, but foresees exhaust of those resources. (See Industry Number Committee, Central Office Code (NXX) Assignment Guidelines (INC 95-0407-008 Mar. 2002), at § 4.3. 2.) He explained that the other type of numbering request is referred to as "initial," which is when a carrier is seeking to establish a presence in a rate center where it has not previously offered telephone service. (See *id.* § 4.2; § 14 (defining "initial code").)

Mr. Light explained that the Commission established the 90-days-to-exhaust requirement in May of 1998 and applied it to all telecommunications carriers. At that time, no nationally mandated standard had been established. Rather, numbering

administrators followed only the Industry Numbering Committee ("INC") Guidelines. The INC consists of members of the telecommunications industry who meet at regular intervals to discuss numbering issues and draft rules that all carriers must follow. Prior to the Commission's order, a telecommunications carrier was required to show exhaust within twelve months in a "non-jeopardy" area code and within six months in a "jeopardy" area code. "Jeopardy" is a status that is given to an area code by NANPA when it determines that the area code is in danger of exhaustion before area code relief can be implemented. (See *id.* § 9.3.1; § 14 (defining "jeopardy").)

Mr. Light explained that, in May of 1998, when the Commission ordered the 90-days-to-exhaust requirement for all Chicagoland area codes (312, 630, 708, 773 and 847), the area codes were all in a "jeopardy" status. The Commission's conservation requirement effectively cut the months-to-exhaust criteria in half by establishing the 90-day threshold. Mr. Light testified that this measure was effective in conserving numbering resources. Together with the other conservation measures, including thousand block number pooling and a 75% utilization threshold requirement before requesting additional resources, the projected exhaust of the 847 area code was forestalled for four years beyond original projections. These measures continue to delay the need for area code relief in the other four Chicago area codes.

In explaining Staff's support for the relief requested in the Petition, Mr. Light testified that, at the time of the Commission's order there existed no national standard for exhaust criteria, only the INC Guidelines. In March of 2000, however, the Federal Communications Commission (FCC) released the 1st NRO Order. In it, the FCC established 180-day exhaust criteria for carriers requesting growth numbering resources codes and established a minimum utilization threshold of 60%. Nevertheless, NANPA continued to observe existing state-ordered rules, including the ICC Numbering Order. Thus, the NANPA continues to follow the 90-day rule for assigning full NXX codes.

On the other hand, the Pooling Administrator now follows the FCC standard of a 180-day to exhaust requirement. In Mr. Light's opinion, that results from the fact that the Commission was delegated authority by the FCC to conduct thousand-block number pooling on a "trial" basis in 1998, pending the implementation of numbering pooling on a national level. The Pooling Administrator administered the pooling "trial" until March 15, 2002, at which time all state-sponsored number pooling trials were incorporated into the national number pooling framework. Concurrent with that change, the Pooling Administrator began applying FCC standards to all requests for "growth" blocks.

As a result, two different criteria now exist for the assignment of growth numbering resources within the Chicago area codes. Those carriers that participate in thousands block number pooling have one set of rules, and those carriers that must still request numbers in full NXX code increments have another. Thus, there is one requirement for the Chicago area codes and a second for the rest of the area codes in the State. This could potentially be confusing for carriers entering multiple areas of

Illinois. Establishing a single set of rules would bring the State in conformance with number assignment policy nationwide.

Mr. Light also noted that, after the FCC announced its national guidelines, the California Public Utilities Commission modified its own 90-days-to-exhaust requirement to follow the national standard.⁷

III. Commission's Analysis and Conclusions

The conservation efforts ordered by the Commission in 1998 were prudent and necessary to forestall premature exhaust in the Chicago area. In the years since those measures took effect, the FCC has taken significant steps to address area code exhaust and number conservation on a national level. The disparity that now exists in the Chicago area for exhaust criteria between pooling and non-pooling carriers is a consequence of national guidelines superseding some, but not all, of our state guidelines. In order to attain competitive neutrality in number assignments, the Commission will amend the ICC Numbering Order to change the 90-day-to-exhaust requirement to 180 days.

IV. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the record herein, is of the opinion and finds that:

- (1) the Commission has jurisdiction over the parties and subject matter in this proceeding;
- (2) the facts recited and conclusions reached in the prefatory portion of this order are hereby adopted as findings herein; and
- (3) the Commission should amend its Order in Docket Nos. 97-0211 and 97-0192 to require that requests for full growth NXX codes in the 847, 312, 773, 630 and 708 area codes are subject to a 180-day-to-exhaust requirement consistent with FCC Rule 47 C.F.R. § 52.15(g)(3)(iii).

IT IS THEREFORE ORDERED that the Order in Docket Nos. 97-0211 and 97-0192 is hereby amended to require that requests for full growth NXX codes in the 847, 312, 773, 630 and 708 area codes are subject to a 180-day-to-exhaust requirement consistent with FCC Rule 47 C.F.R. § 52.15(g)(3)(iii).

⁷ See Order Instituting Rulemaking on the Commission's Own Motion into Competition for Local Exchange Service, Joint Assigned Commissioner and Administrative Law Judge's Ruling Implementing Revised Procedures to Conform to FCC Order, Docket No. 95-04-043 (Cal. Pub. Serv. Comm'n Apr. 30, 2001). <<http://www.cpuc.ca.gov/PUBLISHED/RULINGS/6696.htm>>.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final and it is not subject to the Administrative Review Law.

By proposed order of the Administrative Law Judge this ____ day of May, 2002.

Administrative Law Judge